

U.S. App. No.: 10/618,796
Filed: July 14, 2003

REMARKS

Applicants and Applicants' representatives wish to thank Examiner Nashmiya S. Fayyaz for the courtesy extended during the April 5, 2006 Interview. At the interview Applicants' representatives discussed the changes filed with the Amendment accompanying the Request for Continued Examination filed on March 27, 2006, the Nason reference, amendments to the claims along the lines of this Supplemental Amendment and the arguments for distinguishing the Nason reference set out below. Applicants have amended claims 1 and 17 as discussed during the April 5, 2006 Interview.

Claims 1 - 17 are currently pending and under examination. By this amendment, claims 1 and 17 have been amended. Claims 1, 11 and 17 are independent. Accordingly, by this amendment claims 1 - 17 are currently pending and under examination.

Claim 1 has been amended to more clearly define the filter as holding the end of the test strip and to indicate that the buffer fluid flows directly through the filter to the test strip. Support for amended claim 1 may be found, *inter alia*, in the specification as originally filed at Page 7, paragraph [00058], Page 8, paragraphs [00059 - 00060 and 00065] and in Figures 1 and 8 - 11.

Claim 17 has also been amend to more clearly define the filter as holding the end of the test strip, to more clearly demonstrate that the test strip is oriented below the filter and to include a sample collector. Support for amended claim 17 may be found, *inter alia*, in the specification as originally filed at Page 7, paragraphs [00055 - 00058], Page 8, paragraphs [00059 - 00060 and 00065], Page 9, paragraph [00070], Page 17, paragraphs [000115 - 000118] and in Figures 1, 8 - 11 and 13.

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Applicants respectfully request consideration of claims 1 - 17 in light of the remarks that follow.

Amended Claims 1 – 17 are in Condition for Allowance

Applicants respectfully submit that the previously cited Nason reference (U.S. Patent No. 5,869,003), alone or in combination, fail to teach or suggest the limitations set forth in amended claims 1 and 17. Specifically, the limitations “a test strip having an end” and “a filter holding the end of the test strip” are not met by the securement 56 of Nason. Applicants respectfully maintain that the securement 56 of Nason is structurally and functionally distinct from the claimed invention. The strip holder 56 of Nason is not part of Nason’s transfer wick 82, 182 or 282, but is a separate part which “includes an elongated support arm 58 having an elongated open channel 60 for receiving and supporting the elongated porous diagnostic strip 20” (Column 6, lines 51-56 and Figure 2). Further, the diagnostic strip 20 is slide-fit positioned in the internal track defined by internal ribs 73 (Column 7, lines 12-16 and Figure 3). There is no such structure in the claimed invention nor does Nason teach a filter which holds an end of the test strip so that the buffer fluid flows from contacting with the sample directly through the filter to the test strip.

As is more clearly defined in amended claims 1 and 17, and illustrated by Figures 1, 8-11 and 13 of the subject application, the test strip is held by the filter at one end thereby allowing the remaining portion of the strip to remain out of contact with the sides of the test strip receptacle and below the filter when the device is upright. This structure and correlation permits the sample and reagents to flow downward through the filter over the surface of the test strip to maximize fluid transfer to the test strip without having to solely rely on wicking of the fluid by the test strip as is the case in Nason. The structure of the device in Nason requires that the fluid

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containing the sample and the reagent be wicked up the test strip. See Nason, Column 5, lines 25-27 and Figures 4, 12 and 16. Thus, the structure of the claimed invention allows for good consistent and direct fluid transfer. See Page 8, Paragraph [00060] of the specification.

Accordingly, it would not have been obvious to replace the strip holder of Nason by the filter, which holds the test strip at one end, of the present invention because Nason contains no teaching or suggestion that the test strip should be positioned to allow for optimal direct fluid transfer to the test strip, as claimed.

Accordingly, Applicants respectfully submit that the invention is not rendered obvious by Nason and request that the Examiner reconsider and withdraw the rejection of claims 1 - 13 as amended under 35 U.S.C. 103(a).

CONCLUSION

Applicants respectfully submit that this application is in condition for allowance. Early and favorable action is earnestly solicited. No fee is believed due in connection with the filing of this Supplemental Amendment or the accompanying Change of Correspondence Address form. However, if any additional fees are due the amount of such fee may be charged to Deposit Account No. 19-4709.

Respectfully submitted,



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